

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

<b>UNITED STATES OF AMERICA,</b>	)	<b>CASE NO. 8:06CR140</b>
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>MEMORANDUM</b>
	)	<b>AND ORDER</b>
	)	
<b>JOHN L. PARKS,</b>	)	
	)	
<b>Defendant.</b>	)	

This matter is before the Court on the Report and Recommendation (Filing No. 22) issued by Magistrate Judge Thomas D. Thalken recommending denial of the Defendant's motion to suppress (Filing No. 11). No objections have been filed to the Report and Recommendation as allowed by 28 U.S.C. § 636(b)(1)(C) and NECrimR 57.3(a).

The Defendant seeks an order suppressing: evidence seized during a January 4, 2006, entry into and search of an apartment at 5122 Northwest Radial Highway; and statements made by the Defendant pursuant to his arrest. Judge Thalken determined: the Defendant lacks standing to contest the search of the residence; even assuming arguendo that standing exists, the resident of the apartment, Rosie Parks, voluntarily consented to the search of the apartment;<sup>1</sup> the Defendant has not shown that he has standing in the outbuildings or in the firearms found on the ground outside the apartment after being thrown out the window; he has no reasonable expectation of privacy in the discarded

---

<sup>1</sup>Judge Thalken also noted that, even assuming standing existed, *Georgia v. Randolph*, 126 S. Ct. 1515 (2006), does not apply because the Defendant was present during the search and did not object.

firearms; and the statements cannot be suppressed as fruit of the poisonous tree inasmuch as the entry into the apartment and the Defendant's arrest were found to be lawful.<sup>2</sup>

Notwithstanding the absence of objections, pursuant to 28 U.S.C. § 636(b)(1)(C) and NECrimR 57.3, the Court has conducted a de novo review of the record. The Court has read the parties' briefs (Filing Nos. 12, 16) and the transcript (Filing No. 21). The Court has also viewed the evidence. (Filing No. 19) Because Judge Thalken fully, carefully, and correctly applied the law to the facts, the Court adopts the Report and Recommendation in its entirety.

IT IS ORDERED:

1. The Magistrate Judge's Report and Recommendation (Filing No. 22) is adopted in its entirety; and
2. The Defendant's motion to suppress (Filing No. 11) is denied.

DATED this 30<sup>th</sup> day of August, 2006.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge

---

<sup>2</sup>The Defendant did not contest the voluntariness of the statements.